

Chad McKinney
Pro Se
6266 Madeline St Apt #61
San Diego, CA 92115
619-634-3566

FILED

2008 MAR 14 PM 3:30

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY KMT DEPUTY

THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

CHAD MCKINNEY, an individual,

Plaintiff,

v.

APOLLO GROUP INC., UNIVERSITY OF
PHOENIX, a Corporation, MECHELLE
BONILLA, an Enrollment Manager at
UNIVERSITY OF PHOENIX, KYAN
FLYNN, Director of Enrollment at
UNIVERSITY OF PHOENIX, APRIL
ALCORN, an Employee Relations
Consultant at UNIVERSITY OF PHOENIX
CARLYN LINDSTEN, Associate Director of
Enrollment at UNIVERSITY OF PHOENIX

Defendants

) CIV. Case No.07-cv-2373 **WQH-CAB**
)
) FOR VIOLATION OF FEDERAL
) FALSE CLAIMS ACT AND FOR
) VIOLATION OF THE
) THE CIVIL RIGHTS ACT 1964 AND
) THE AMENDMENTS TO TITLE
) VII OF THE CIVIL RIGHTS ACT OF
) 1991

) RETALIATION- WRONGFUL
) TERMINATION &
) EMPLOYMENT DISCRIMINATION
) CIVIL ACTION

) Memorandum of Points and
) Authorities in Support of Plaintiff's
) Motion for Default Judgment

) No oral hearing date
) unless requested by the court.
) Hearing date: April 21, 2008
) time: 11:00 a.m.

) Demand for Trial By Jury Pursuant
) to U.S. Constitution, 7th Amendment

) March 14, 2008

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT PLAINTIFF'S
MOTION FOR DEFAULT JUDGMENT**

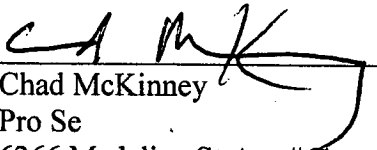
Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, and any other relevant Federal Rule of Civil Procedure pertaining to this case, plaintiff Chad McKinney, Pro Se, respectfully moves the Court to enter a default judgment against the defendant Kyan Flynn, in the amount of \$5,000 since the Defendant has failed to plead or otherwise defend herself against the plaintiff's original complaint within the timeframe required by the Federal Rules of Civil procedure. The Complaint was originally filed with the Court on December 19th 2007 and entered December 20th. The defendant was served on January 31, 2008. (Please see copy of Return of Service).

In support of this motion, the Plaintiff states with supporting evidence:

1. This complaint was filed on December 19, 2007
 2. This complaint was properly served on January 31, 2008
 3. As of the 12th of March 2008, the Defendant is late 42 days.
 4. The plaintiff's complaint requests punitive damages of \$5,000, so a default judgment in this amount should be deemed reasonable.
 5. Said defendant is not an infant or incompetent, but an individual who was given ample time to respond within the timeframe required by the Federal Rules of Civil Procedure.
- No extra time was requested by the defendant nor granted by the Court.

1 WHEREFORE, the Plaintiff respectfully request that this Court issue and Order a Default
2 Judgment against the Defendant in the amount of \$5,000 to reasonably cover the damages
3 incurred by the plaintiff.


4
5 Respectfully submitted,

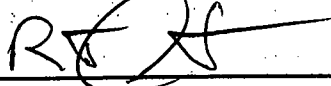
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CERTIFICATE OF SERVICE

I, Chad McKinney, hereby certify that on, March 14, 2008, I served copies of the Motion for Default Judgment on the following parties by way of United States Postal Service First Class Mail:

University of Phoenix;
Attention of: Kyan Flynn
3890 Murphy Canyon Road
San Diego, CA 92123


Chad McKinney

RETURN OF SERVICE			
Service of the Summons and Complaint was made by me		DATE <u>1/31/08</u>	
NAME OF SERVER <u>R.T. Hansell</u>		TITLE <u>R.P.S.</u>	
Check one box below to indicate appropriate method of service			
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____			
<input type="checkbox"/> Left copies thereof at the defendant's dwelling, house or usual place of abode with a person of suitable age and discretion then residing therein: _____			
Name of person with whom the summons and complaint were left: _____			
<input type="checkbox"/> Return unexecuted: _____			
<input checked="" type="checkbox"/> Other (specify): <u>Served Kyan Flynn by leaving copies with Ellen Bowens (Administration) at defendant's place of employment.</u>			
STATEMENT OF SERVICE FEES			
TRAVEL		SERVICES	TOTAL \$ <u>25</u>
DECLARATION OF SERVER			
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service is true and correct.			
Executed on: <u>2/12/08</u> <div style="text-align: right;">Date</div>		<u></u> <div style="text-align: right;">Signature of Server</div>	
		<u>2445 Morena Blvd, Ste 206</u> <div style="text-align: right;">Address of Server</div>	
		<u>S.D. Ca. 92110</u> <div style="text-align: right;">Address of Server</div>	
NOTICE OF RIGHT TO CONSENT TO TRIAL BY A UNITED STATES MAGISTRATE			
IN ACCORDANCE WITH THE PROVISION OF 28 USC 636(C) YOU ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE OF THIS DISTRICT MAY, UPON CONSENT OF ALL PARTIES, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT. <u>COUNSEL FOR THE PLAINTIFF HAS RECEIVED A CONSENT FORM.</u>			
YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE OR MAGISTRATE TO WHOM THE CASE HAS BEEN ASSIGNED BE INFORMED OF YOUR DECISION.			
JUDGEMENTS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.			

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

1 Chad McKinney
2 Pro Se
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4 San Diego, CA 92115
5 619-634-3566

6 **THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA**

7 **March 14, 2008**

8 **BY HAND DELIVERY**

9 The Honorable Judge William Q. Hayes
10 Referred to: Magistrate Judge Cathy Ann Bencivengo
11 330 West Broadway, San Diego
12 CA 92101-3827

13 Re: McKinney v. Apollo Group Inc., *et al*
14 Civil Action 07-cv-2373

15 Dear Judge Hayes,

16 Enclosed is a courtesy copy of the Plaintiff's Motion for Default Judgment and appendices that was
17 hand delivered with the Clerk today.

18 Respectfully,

19 
20 Chad McKinney, Pro Se

21 Cc: Apollo Group, Inc.
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23
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